

## BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF KELLI	) APPEAL NO. 07-A-2111
KINKELA from the decision of the Board of	) FINAL DECISION
Equalization of Ada County for tax year 2007.	) AND ORDER
	)

### RESIDENTIAL PROPERTY APPEAL

THIS MATTER came for hearing on October 16, 2007 in Boise, Idaho before Hearing Officer Travis Vanlith. Board Members Lyle R. Cobbs, Linda S. Pike and David E. Kinghorn participated in this decision. Appellant Chad Kinkela (owner) appeared. Kelli Kinkella did not appear. Eric Thornfeldt, an acquaintance of Mr. Kinkella and professional fee appraiser, appeared as a witness for Appellant. Appraisal Supervisor David Jauquet and Appraiser Tina Winchester appeared for Respondent Ada County. This appeal is taken from a decision of the Ada County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel No. R8584580230.

**The issue on appeal is the market value of a residential property.**

**The decision of the Ada County Board of Equalization is affirmed.**

### FINDINGS OF FACT

The assessed land value is \$260,000, and the improvements' valuation is \$495,800, totaling \$755,800. Appellant requests the total market value be \$680,000.

The subject property is a 0.29 acre parcel with a two-story single-family residence built in 2005. The residence has 4,019 square feet of living space and a 1,252 square foot garage. Subject is located in the Two Rivers subdivision ("Two Rivers") of Eagle, Idaho. Subject is bordered by improved residential lots to the east and west, and West Mace Road to the north.

Appellant provided Multiple Listing Service (MLS) data from five residential property sales to establish subject's market value. The sales occurred during 2006 and were all located in Two

Rivers within 0.7 miles of subject. The residences were built between 2001 and 2004. Lots ranged from .24 to .49 acres. Three lots were located on a pond and had “specialized” views. Residential living space ranged from 3,670 to 3,856 square feet. All were two-story residences with three-car garages. Sale prices ranged from \$590,000 to \$705,000, or \$161 to \$183 per square foot. For comparison, subject was assessed at \$755,800, or \$188 per square foot.

Appellant claimed two sales, Comparable A and Comparable B, most closely resembled subject because they were not located on a pond and did not have a “special view.” Comparable A sold for \$689,900, or \$179 per square foot, while Comparable B sold for \$635,000, or \$172 per square foot.

It was asserted several residences in Two Rivers had been on the market “at least a year or longer.” Appellant also maintained subject’s 2007 assessed value was unreasonable and \$174 per square foot was “more realistic of what the house could sell for” during 2006 and 2007.

Respondent provided data from four residential property sales to establish subject’s market value. It was maintained these were the best available sales for comparison to subject. The sales all occurred during 2006 and were located in Two Rivers within 0.3 miles of subject. The sellers were all builders. Three sales were located in Phase 9 of Two Rivers, the same building phase as subject. One sale was located next to subject and two sales were located within 230 feet of subject. Only one sale was located in another building phase. The residences were all built during 2005, the same build year as the subject residence. Lots ranged from .30 to .38 acres (12,850 to 16,466 square feet). No lots were located on a pond and they all shared the same general view as subject. Residential living space ranged from 3,612 to 4,042 square feet. All but one sale were two-story residences. All had three-car garages. Sale prices ranged from \$719,500 to \$775,000, or \$186 to \$209 per square foot.

Respondent adjusted the comparable sales “to equalize” the four properties with subject. The adjustments accounted for differences between the properties, such as above grade square footage, garage square footage, design/appeal, fireplaces, and number of bathrooms. Photographs showed similar exterior finish among the comparable properties and subject residence. The photographs also showed only one sale, Comparable 1, was a single-level residence. No adjustments were made for construction quality, condition, or landscape/water features, which were considered similar. Adjusted prices ranged from \$736,300 to \$799,000, or \$183 to \$199 per square foot.

According to Respondent, a typical price per square foot, after all of the adjustments, “would be around \$198 per square foot.” It was maintained subject was reasonably assessed because its assessed value of \$188 per square foot was well below the adjusted price per square foot.

A map of the area provided by Respondent showed “2007 Assessed Land Values” in Two Rivers. The map indicated subject had the same assessed land value, \$260,000 per lot, as at least thirty-three other lots in Two Rivers.

Respondent also provided sales data for all properties sold in Two Rivers from January 2006 to February 2007. All properties sold in Phase 9, the same building phase as subject, were highlighted. The residential living space of Phase 9 properties ranged from 3,878 to 5,752 square feet. Sale prices of Phase 9 properties were between \$719,500 and \$1,250,000.

It was further maintained Respondent’s assessment approach was reasonable because two comparable sales were located “next door” to the subject and a third sale was “three houses down.” It was asserted twelve distinct building phases were included in Two Rivers and comparable sales from subject’s phase were the best measure of subject’s market value. It was

maintained “standard appraisal practice” does not “average prices and come up with an average price per square foot for everything.” Instead, the “best” appraisal approach was to identify comparable sales “most similar to subject and in close proximity,” and then adjust those sales to account for differences affecting value.

Respondent challenged Appellant’s reliance on sales located in earlier building phases of Two Rivers because they were not “the same quality as subject” and not “the same quality as Phase 9.” It was stated Phase 9 residences had stucco exteriors, while residences built in earlier phases had wood siding. It was argued the comparable sales from Phase 9 “best reflect the market value of the subject property.”

Appellant’s Witness, a professional fee appraiser, challenged Respondent’s adjusted sales data because it did not include adjustments for “construction quality” and “condition.” It was further asserted Respondent’s comparable sales were high because the residences were new and had never been occupied. It was stated new unoccupied residences were more desirable and marketable than residences with prior occupancy, which was a “condition” Respondent should have considered in the sales adjustments.

Appellant’s Witness further testified new home sales were not indicative “of a true arm’s-length transaction.” It was contended new home sales involved “a different dynamic” than resales because they occurred between highly motivated builders and buyers. This “dynamic” was said to frequently result in higher sale prices that included “extras,” “closing costs,” or other negotiated factors. Appellant’s Witness pointed out Respondent’s Comparable 2 was a new unoccupied home that “sold for \$50,000 more than the asking price [which] could be attributed to a lot of things, but you don’t generally see [an increase like that] in resale homes.”

Appellant's Witness testified Respondent's "design/appeal" adjustment of \$10,000 to Comparable 1 was "significantly low" because single-level residences were "way more expensive to build than two-story homes." Appellant's Witness stated Comparable 1 appeared to have "a much higher quality of interior finish" than subject and noted that "interior finish quality" can significantly impact sale price in the Two Rivers market. Appellant's Witness also stated Comparable 3 was "a higher quality home" than subject, a "construction quality" difference Respondent should have considered in the sales adjustments. It was further asserted Appellant's comparable sales were "more indicative of true market value."

When Appellant asked if the Appraiser considered a "quality" adjustment to Comparable 3, she replied, "I did not." When asked if a similar "quality" adjustment was contemplated for Comparable 1, the Appraiser replied, "I did not make a quality adjustment, but I did make an adjustment for the fact that it is a single-level and the subject is a two-story. Single-levels tend to be more desirable." When Appellant asked the Appraiser to explain the basis for the \$10,000 "design/appeal" adjustment, she responded, "Specifically, I don't remember." The Appraiser claimed the adjusted sales data properly accounted for "quality adjustments." However, it was conceded any "quality" adjustment could be in the range of "\$30,000 to \$40,000."

Appellant testified regarding the interior construction quality of Comparable 3:

[T]he quality of construction, in comparison to [subject] is completely different. [Comparable 3] has travertine floors throughout that are heated. It's got a Sub-Zero refrigerator in it. It's got Viking appliances. It's got all hardwood, solid alder doors that are stained, all solid baseboard and trim that is stained. The fit and finish of that home is completely different.

Appellant agreed "the best way to evaluate your home is to look to the homes next to you." But it was reported the neighboring residences, excluding a nearby home constructed by the same builder as subject, were "well above" subject's "fit and finish."

## CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following:

Idaho Code provides that "All property within the jurisdiction of this state, not expressly exempted, is subject to appraisal, assessment and property taxation." I.C. § 63-203.

Idaho Code further directs that "rules promulgated by the State Tax Commission shall require each assessor to find market value for assessment purposes of all property." I.C. § 63-208(1).

For taxation purposes, Idaho requires that property be valued at market value. I.C. § 63-201(10). The Idaho Administrative Code defines market value and accepted appraisal procedures:

**01. Market Value Definition.** Market value is the most probable amount of United States dollars or equivalent for which a property would exchange hands between a knowledgeable and willing seller, under no compulsion to sell, and an informed, capable buyer, under no compulsion to buy, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

**03. Appraisal Procedures.** Market value for assessment purposes shall be determined through procedures, methods, and techniques recommended by nationally recognized appraisal and valuation associations, institutes, and societies and according to guidelines and publications approved by the State Tax Commission.

IDAPA 35.01.03.217.01, .03 (emphasis added).

Respondent offered four residential property sales to establish subject's assessed value. These properties resembled subject in terms of age, size, location, and overall construction

quality. Respondent's comparable sales included an adjacent property, a neighboring property, and a third property within 340 feet of subject. All of Respondent's comparable sales were constructed during 2005, the same build year as the subject residence.

Respondent's adjustments reasonably accounted for differences between subject and the comparable sales. The adjusted sale prices ranged from \$736,300 to \$799,000, or \$183 to \$199 per square foot. Subject's total assessed value and price per square foot were in the middle of this "adjusted" range.

Appellant asserted Respondent's comparable sales were not indicative of subject's market value because all were new residences which had never been occupied. Appellant specifically challenged two (2) of Respondent's comparable sales claiming the interior construction quality was superior to subject's.

Appellant also challenged Respondent's adjusted sales data because no adjustments were made for "construction quality" or "condition." Appellant showed differences in "construction quality" between subject and two of Respondent's comparable sales. Appellant also showed differences in "condition" between subject and Respondent's comparable sales. Respondent conceded any adjustment for these differences could be in the range of "\$30,000 to \$40,000."

With an additional \$40,000 adjustment to Respondent's comparable sales, the adjusted prices range from \$696,300 to \$759,000, or \$173 to \$189 per square foot. Subject's total assessed value, \$755,800, and price per square foot, \$188 per square foot, are still within this revised range. Therefore, the Board finds Respondent's comparable sales were indicative of subject's market value, despite acknowledged differences in interior construction quality and condition.

Appellant offered five residential property sales to establish subject's assessed value and

maintained these were the best indicators of subject's market value. Although these sales were within Two Rivers, they were located farther away from subject than Respondent's comparable sales and were not built during the same year as subject. Unlike subject, three of Appellant's comparable sales were located on a pond and had "special views." In some instances, the comparable residences were constructed with lower quality building materials. Although Appellant's comparable sales support the subject's market value claim, the Board finds Respondent's comparable sales more accurately reflected subject's age, size, location, and overall construction quality.

A property valuation for taxation purposes, as determined by an assessor, is presumed correct and the taxpayer has the burden of proof to show, by a preponderance of the evidence, an entitlement to relief. *Merris v. Ada County*, 100 Idaho 59, 64, 593 P.2d 394, 399 (1979).

Factual determinations, supported by competent and substantial evidence, are not erroneous despite conflicting evidence. *Wulff v. Sun Valley Co.*, 127 Idaho 71, 73-74, 896 P.2d 979, 981-82 (1995).

The Board will grant relief where the valuation fixed by the assessor is manifestly excessive, fraudulent or oppressive; or arbitrary, capricious and erroneous resulting in discrimination against the taxpayer. *Roeder Holdings, L.L.C. v. Bd. of Equalization of Ada County*, 136 Idaho 809, 41 P.3d 237 (2001); *Merris*.

Although differences between the subject and sale properties exist, a comparison of 2006 sale prices to subject's assessed value demonstrated Respondent's assessment of subject was reasonable. Appellant claimed subject's assessment was inaccurate, but failed to demonstrate specific errors. Respondent's comparable sales reasonably support subject's assessed value. Therefore, the Board finds Respondent's assessment was not arbitrary and Appellant has not



demonstrated error by a preponderance of the evidence.

The decision of the Ada County Board of Equalization is affirmed.

**FINAL ORDER**

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Ada County Board of Equalization concerning the subject parcel be, and the same hereby is, affirmed.

MAILED February 4, 2008